IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 12686 of 2007(I)

PETITIONER:

BABY MATHAI, U.D.CLERK, KVAT I CIRCLE,
COMMERCIAL TAXES, ERNAKULAM,
KODDIYATTIL HOUSE,
KADAYIRUPPU P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.BABY MATHAI (PARTY-IN-PERSON)

RESPONDENTS:

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1. **THE STATE OF KERALA,**
   REPRESENTED BY CHIEF SECRETARY,
   GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

2. **SECRETARY,**
   KERALA PUBLIC SERVICE COMMISSION,
   TULSI HILLS, THIRUVANANTHAPURAM.

3. **CONTROLLER OF EXAMINATIONS,**
   KERALA PUBLIC SERVICE COMMISSION,
   TULSI HILLS, THIRUVANANTHAPURAM.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC
BY GOVERNMENT PLEADER SRI.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR,J.

WP(C)NO.12686 OF 2007-I

Judgment

The petitioner was a candidate who applied for appointment to the post of Sales Tax Officer under the Kerala Government. The written test was held on 26.08.2006. Annexure A produced along with a memo dated 04.07.2007 is the question paper. The PSC bulletin dated 15.09.2006 published the answer key and invited objections to it. The petitioner submitted Ext.P3 objections to the answer key. The Public Service Commission considered the same. Question No.2 was deleted. The answers to Question Nos.78 and 84 were changed. No change was made in the answer key relating to questions 53 and 55. The question paper concerned was one with alpha code D . The finalised answer key was published as per Ext.P4 on 01.02.2007. The petitioner felt that some of the answers in the final answer key are also wrong. Therefore, he filed Ext.P5 representation. But, ignoring that representation, the Public Service Commission published the short list of candidates on 09.03.2007. The petitioner is not included in the said short list. The interview for selection to the said post was held as per Ext.P7 schedule in April 2007. This Writ Petition is filed challenging the short list published. The main ground of attack against the short list is that the finalised answer key contains errors that are pointed out in Ext.P5. The petitioner submits, an incorrect answer can tilt the balance and only because of the incorrect answers

pointed out by him in Ext.P5, he could not find a place in the short list. Therefore, he prays for quashing Ext.P6 and also seeks consequential reliefs.

2. The Public Service Commission has filed a counter affidavit, in which it is submitted that the question papers are set by persons included in a panel of experts. The answer keys are prepared by the said experts. By publishing the answer key, objections were invited. The objections filed by the petitioner were also received and submitted to the panel of experts. They finalised the answer key and based on that, the valuation was done and the short list was published. It is submitted that to avoid the mistakes in the answer key, all that were possible have been done by the Public Service Commission.

3. Heard the petitioner, who appeared in person and also the learned Standing Counsel for the Public Service Commission. Having regard to the nature of the dispute raised, I think, this Court is not justified in the sitting in appeal over the finalised answer key. This Court is not concerned with the decision, but only with the decision making process. The Public Service Commission has published the answer key, invited objections, the views of the experts were taken and the answer key was finalised according to their opinion and based on that, the valuation was done and the short list was published. So, I find that the Public Service Commission has followed a fair procedure and has done everything under its powers to avoid errors in the answer key. Persons who are already included in the short list

are not impleaded in this Writ Petition. Going by the principles laid down by the Division Bench of this Court in WA No.987/06, I feel that this Court is not justified in interfering with the short list. Accordingly, the Writ Petition fails and it is dismissed.

18.07.2007 **K.BALAKRISHNAN NAIR,JUDGE**

Nm